

CHAPTER NO. 879
SENATE BILL NO. 3178

By Gilbert, Henry

Substituted for: House Bill No. 3087

By Kisber

AN ACT To amend Tennessee Code Annotated, Section 9-21-151, relative to the issuance of debt obligations.

WHEREAS, Debt issues by local governments in many instances have become very complicated; and

WHEREAS, It has become very difficult for a local government to determine the true cost of issuance for certain debt obligations; and

WHEREAS, It is the intent of the General Assembly that local governments be informed as to the true cost of the issuance of certain debt obligations prior to the sales of said debt obligations; and

WHEREAS, It is in the best interest of the citizens of local government to have public disclosure of the true cost of the issuance of certain debt; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 9-21-151, is amended by adding the following language as a new subsection (b) and redesignating the existing language accordingly:

(b)(1) Before any person or entity enters into a financial advisory contract with a public entity relative to the issuance of a debt obligation or enters into a bond purchase agreement or bond placement agreement with a public entity under which such person or entity acts as an underwriter or placement agent of a debt obligation, such person or entity shall first file with the public entity and the director the estimated costs of issuance for such debt obligation, including financial advisory fees, bond counsel fees, other legal fees, paying agent and registrar fees, trustee fees, credit enhancement fees, liquidity fees, remarketing agent fees, rating agency fees, underwriter's discount, printing and advertising fees, and other similar expenses. The filing shall be made in accordance with the procedures adopted by the State Funding Board.

(2) If a person or entity enters into a contract to provide financial advisory services for a specific period of time and not with respect to a specific debt obligation, no filing shall be required under this subsection at the time such contract is entered into, but the financial adviser shall make the filings required by this subsection prior to the entity's authorization of each debt obligation issued during the term of such financial advisory contract.

(3) If a public entity has obtained the services of both a financial adviser and an underwriter or placement agent with respect to the issuance of a debt obligation, the financial advisor, and not the underwriter or placement agent, shall be responsible for the filings to be made pursuant to this subsection.


(4) The State Funding Board shall adopt by resolution a form and guidelines to be used for the submission of the information required by this subsection. No filings shall be required pursuant to this subsection until thirty (30) days after such resolution has been adopted. The State Funding Board is authorized to exempt from the filing requirements of this subsection any debt obligations that are under an amount established in the State Funding Board's guidelines.

(5) If any filing required by this subsection is not made, the financial adviser, underwriter or placement agent, whichever is responsible for the filing, shall not be entitled to receive any fees or other compensation relative to the issuance of the debt obligation with respect to which a required filing was not made. If the financial adviser, underwriter or placement agent receives any fees or other compensation for a debt obligation with respect to which a required filing has not been made, the public entity, or the state acting on behalf of the public entity, may recover, by legal action if necessary, such fees or other compensation from the party that was responsible for making the filing.

(6) The provisions of this subsection shall not apply to debt obligations issued by an industrial development board or health, educational and housing facility board of any city, county or metropolitan government.


SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

PASSED: April 22, 1998

APPROVED this 6th day of May 1998


DON S. QUIST, GOVERNOR